THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.4379 of 2007

.4.2007

Between:

Thota Narsinga Rao, S/o.late Yellaiah

… Petitioner

AND

The Joint Collector, Visakhapatnam District
And others

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.4379 of 2007

ORDER:

The petitioner herein is allegedly in possession and enjoyment of the land admeasuring Acs.4.48 in RS.No.45/2 and Acs.0.62 in RS.No.45/3 at Narellavalasa village of Bheemunipatnam Mandal in Visakhapatnam District since 1950. He also alleges that his name was entered in the revenue records like Settlement Fair Adangal and 10(1) Adangal. In 2006 Thota Satyanaryana, grandson of petitioner's brother, tried to grab the land. On coming to know that the second respondent obtained Pattadar Pass Book (PPB) and title deed, the petitioner filed W.P. No.16335 of 2006 seeking quashing of the order dated 20.4.2006 passed by the Revenue Divisional Officer, Visakhapatnam (RDO), whereunder the PPB and title deed issued to the petitioner were cancelled. The General Power of Attorney (GPA) of second respondent filed a suit being O.S.No.971 of 2006 on the file of the Court of the Principal Senior Civil Judge, Visakhapatnam, for injunction. Interlocutory application being I.A.No.989 of 2006 for *ad* interim injunction was dismissed. In the meanwhile, a sale deed was executed and registered on 17.10.2006 in favour of the third respondent by the GPA of the second respondent based on which the third respondent filed a suit being O.S.No.207 of 2006 on the file of the Court of the I Additional District Judge, Visakhapatnam, for declaration of title. I.A.No.1531 of 2006 for interim injunction is pending before the trial Court. The writ petition filed by the petitioner being W.P.No.16335 of 2006 was disposed by this Court on 04.12.2006. While setting aside the order of the RDO dated 20.4.2006, this Court gave liberty to the second respondent herein to prefer revision petition before the Joint Collector. The second respondent filed revision petition before the first respondent on 21.12.2006. In the said revision petition, the first respondent passed orders suspending the PPB and title deed

issued to the petitioner aggrieved by which the present writ petition is filed.

Learned Counsel for the petitioner submits that having regard to the suit filed by the third respondent being O.S.No.207 of 2006 for declaration of title and injunction, the revision petition preferred before the first respondent is superfluous. He would urge that when once a declaration suit is filed, the authorities under A.P. Rights in Land and Pattadar Pass Books Act, 1989 (the Act, for brevity), cannot conduct any enquiry and, therefore, the first respondent ought to have rejected the revision petition. **Opposing** the writ petition, learned Assistant Government Pleader for Revenue (General-A) submits that the petitioner herein filed writ petition challenging the order of the RDO, who *suo motu* exercised appellate powers and set aside the PPB and title deed issued in favour of the petitioner. This Court set aside the said order and gave liberty to the second respondent to prefer a revision before the Joint Collector. Therefore, the revision petition filed by the second respondent is not barred. Secondly, he points out that as per Section 8(2) of the Act, any person aggrieved by the entries or revenue records can prefer a suit for declaration of title and the same does not bar the exercise of jurisdiction by the authorities under the Act.

What is challenged in the writ petition is an interlocutory order. The question raised by the petitioner in this writ petition is indeed the question that ought to be raised before the first respondent when the main revision is taken up. A perusal of the impugned order would show that the second respondent filed revision through his GPA. In the affidavit filed by the GPA before the first respondent along with appeal, it was alleged that the petitioner herein is trying to alienate the land without any title. This weighed with the first respondent and, therefore, he suspended the PPB and title deed. Therefore, the revision petition entertained by the first respondent or the impugned order passed, are not barred by the provisions of the Act nor the provisions preclude the first respondent from entertaining the revision petition merely because a suit is pending. The suit has been admittedly filed by the third respondent and, therefore, it is always open to the petitioner to bring to the notice of the Joint Collector these aspects in which event any order passed by the Joint Collector may necessarily be subject to the result in the suit.

The writ petition is misconceived and is accordingly dismissed. No costs.

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(**V.V.S.RAO, J**)

April , 2007.
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